IN THE

SUPREME COURT OF THE UNITED STATES

WASHINGTON, D.C.

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SUPREME COURT, U.S.

Rt.Rev.Edward Wayland Ph.D.
Appellant/Plaintiff

against **79-6090**

James B Tiffany, jr
James F Sterio
Theodore C Regnante
Essex County Bank & Trust Co.
Mitchell J Sikora,jr
Appellee/Defendant

No._____

JURISDICTIONAL STATEMENT

Rt.Rev.Edward Wayland Ph.D.
P.O.Box 1008
Lowell, Mass. 01853

James F Sterio
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Peabody, Mass. 01960

Mitchell J Sikora, jr
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Memorandum
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M2. Sovereign Immunity
M3. Supreme Law of the Land
M4. No Immunity Under Law
M5. Fails to Protect
M6. Allodial Freehold

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James B Tiffany, jr, et al *

U.S.D.Ct. CIVIL No. 79-146-C
U.S.C.A.1 79-1652

APPELLANT'S JURISDICTIONAL STATEMENT

The Appellant/Plaintiff, Rt.Rev.Edward Wayland Ph.D., Ms.D., D.D., appeals the rulings and decisions of the lower courts, pro se in forma pauperis, arising under Amendment 1 and Rule 32, 24(e) of the F.R.A.P., and Rules 39, 47, and 53 of the Supreme Court Rules for multiple violations of Civil Rights under color-of-law, denial of the right to trial by jury, denial of the right to speak and to be heard, and denial of the right to petition the govennment for redress of grievances; and other violations of guaranteed Constitutional Rights.

OPINIONS OF THE LOWER COURTS APPEALED FROM

On September 27, 1979, the U.S.District Court (Mass) enjoined Appellant/Plaintiff, Rt.Rev.Edward Wayland Ph.D., from instituting

and being restrained from inaugurating any further proceedings in the Federal and State Courts against Appellee/Defendants.

This was done without trial, without hearing; deprived of Jury Trial demanded; and Constitutional right to fair trial.

Then, on September 28, 1979 the U.S.District Court (Mass) Dismissed instant case; without hearing, without Jury Trial demanded, without fair trial;

And then the U.S.District Court refused to forward Appeal of Appellant/Plaintiff to the U.S.C.A.1.

On January 10, 1980, the U.S.Court of Appeals for the First Circuit, also without hearing, without Jury Trial Damanded, in violation of the right to fair trial also denied the right to petition the government for redress of grievances by affirming the Dismissal of the lower court.

JURISDICTIONAL STATEMENT

Jurisdiction is granted to this Court by:

28 U.S.C. Sect. 1291, 1254, 1331, 1343, 1346, and 2072 which mandates jury trial;
18 U.S.C. 241, 242, 2236;
42 U.S.C. 1983, 1985, 1986, 1988
and
Amendments 1,4,5,6,7,8,9,10,13,14 which guarantee the Appelalant the right to a fair trial, an unbiased judge, due process, by Jury as demanded on a guaranteed Right to Petition the government for Redress of Grievances (any one of said amendments is jurisdictional by the Supremacy Clause of the Constitution; Article 6(3) which brings the entire Constitution into the Court; and invalidates any and all Statutes, Regulations, Rules-of-Proceedure, which are in violation of the Constitution..its guarantees...meaning..or intent;

Article 1 S.10 (Impairment of Obligation Clause) wherein the Constitution is the Contract between the Government and the Sovereign Citizen..in addition to limiting and enumerating the powers of the governments;

Magna Charta..the first attempt to crystalize the Common Law;
Common Law..the Written and Unwritten Law of Conscience, the Supreme Law of the Land (founded upon the Judaic/Christian Concept).(And not what is commonly misinterpreted as the Common Law which is derived from the king's Star Chamber and other of the king's courts which remain under the

king's control);
Ten Commandments (old Testament)
11th Commandment (new Testament)..the foundation of the Common Law, legitimate law...as opposed to Roman Law a the Napoleonic Code;
Constitution...which was intended to improve on the Common L and incorporated the Common Law, for it was founded up the Constitutions in existance from Mass, Virginia, an Pennsylvania...which are Common Law;
Allodial Freehold...established by the Common Law and writte into the Constitution by Preamble, the Bill of Powers and Rights; and, in particular, Amendments 9, unenumer- ated rights, and 10, reserved rights;
Amendments 5 and 14 right to due process and equal protection under law;
Constitution for Commonwealth of Massachusetts which mandates Jury Trial, and that all government is....agent for the citizen.

Appellant/Plaintiff, Rt.Rev.Edward Wayland Ph.D., filed Notic of Appeal on the Basis of Loss of Jurisdiction by both the U.S.D.C and the U.S.C.A.1. in that both Courts have denied him the right to Petition for Redress of Grievances, in addition to denial of Jury Trial which is mandated in all Civil Rights/Public-Wrong Cases.

That in denying Appellant hearing, trial-by-jury on a Civil Rights Case, as required by law, the lower Courts have perpetrated a Bill-of-Attainder and unjustly punished Appellant by denying him guaranteed and mandated Constitutional Rights, violated due process (procedural and substantive), and "failed to protect" as guaranteed by the Constitution of the United States and the Common Law; when Appellant cannot petition or cannot get redress on a public-wrong, the statute, law, order, decision is unconstitutional on its face and in its application.

Thus, with Loss of Jurisdiction, Appellant has filed Affidavit and Disclaimer in each court depriving of such jurisdiction and guaranteed Constitutional Rights.

QUESTIONS PRESENTED

The following questions were presented to the U.S.C.A.1. and were totally ignored:

1. Where it is maintained, as in Brault v Town of Milton and KEY citations that the Constitution, or any part thereof, are juris-

dictional, can a Court deprive of Constitutional Rights and maintain jurisdiction?

2. Can a Court deny the Amendment 1 Right to Petition and maintain jurisdiction?

3. Can a Court deny the Amendment 7 Right to Jury Trial and maintain jurisdiction?

4. Can a Court deny fair trial and multiple Constitutional Rights and retain jurisdiction?

All of the above questions have been answered by the Supreme Court in that such denials results in Loss of Jurisdiction.

and further Questions are Presented:

5. Can a Citizen be deprived of Procedural Safeguard and the guarantees of the Constitution?

6. Can a Court ignore legitimate demands, and proceed where a proven charge of Fraud has been averred and admitted by opposing litigant?

7. Can the Court deny Jury Trial demanded...constitutionally?

8. Is Mass. R.C.Procedure Rule 4.1 (Attachment process) constitutional (where the Supreme Court has declared others in other states unconstitutional)?

9. Can a Court deny that the Constitution of the United States is Valid, Binding Law and retain jurisdiction? Can it then issue valid orders and opinions?

STATEMENT OF THE FACTS

After refusing to accept a payment (which under Common Law cancells all further obligation...if any) Essex County Bank & Trust Co brought suit in the Peabody District Court (Mass) for $1047.82; and received a lean for $1204.99 before any trial.

Appellant, Rt.Rev.Edward Wayland Ph.D., demanded jury trial, and when denied, attempted to remove to the Federal Courts. The unrelenting interference of the Defendants obstructed his Right to Petition for Redress of Grievances, etc., and Appellant failed, the case was remanded to the Peabody District Court;

Appellant/Plaintiff then filed suit in the Federal Courts for violations of Civil Rights by the Defendants (most of which are NOT listed in instant case) and was denied fair trial, Jury Trial, the case being Dismissed; and Appellant failed in his attempt at Redress.

At this point, Appellant filed Affidavit and Disclaimer with each Court on the basis of Loss of Jurisdiction by that Court for violating Citizen's Constitutional Rights as litigant; and that by such loss of Jurisdiction no Order issued was Valid.

The various Defendants, by fraud, false misrepresentation; and with deliberate, calculated malice, acting under color-of-law, obstructed, and continued to obstruct the Appellant's attempt to secure the Justice guaranteed to him.

Encouraged by the Defendants success in depriving of the Rights of the Sovereign Citizen, the Defendants continued to further violate his rights....

It is at this point that Appellant/Plaintiff brings Special Notice to this Court; for <u>it is at this point that this suit begins</u>...and not as above, which is so erroneously claimed by the lower courts. That is the error made by the lower courts...aided and abetted by misinformation, etc. of Defendants deliberately confusing and obscuring <u>the issue listed below</u>:

Appellant, Rt.Rev.Edward Wayland Ph.D., not within the jurisdiction of the Peabody District Court, was <u>enticed</u> falsely into that court on the written-pretext of hearing-on-motions. Having been falsely deluded into appearing for MOTIONS...without prior warning or notice, a TRIAL WITHOUT DEMANDED JURY was hurled at him, without notice and in complete surprise. Not being a lawyer, and not prepared, he was at a disadvantage...which the Court AND the Defendants were well aware; and ignored Appellant's objections.

Appellant attempted to appeal the adverse decision, but was obstructed by the Defendants, in particular James B Tiffany jr, who had been the adverse presiding judge..both in writing and orally. Thus making his ardent protests to the opposite in the lower court pleadings as so much assorted-perjury.

While Appellant was attempting in the Court of Appeals, the Superior Court, and the Supreme Judicial Court to have the case tried by Jury...all of the Courts refused to docket...there were more surprises in store for the Appellant.

; Appellant, Rt.Rev.Edward Wayland Ph.D., is of the conviction that violations of the Constitutional Rights secured by the founders, are most accurately determined (as the Founders intended), not by case-law, but by going directly to the source:

THE CONSTITUTION OF THE UNITED STATES OF AMERICA

and is upheld in this belief by Green v US 356 US 165, 195(1958)

> "ordinarily it is sound policy to adhere to prior decisions but this practice has quite properly never been a blind inflexible rule"

and other citations wherein the Supreme Court determined that only the parties litigant are bound by a particular decision... (However, only if the Court has retained jurisdiction..note by Appellant. And that, unless it is Common Law Jury Trial per pais, the ruling is not valid for citation).

Amendment 1 gives the Appellant the Right to petition the government for redress of grievances..the right to speak..the right to be heard.

This has been denied him in U.S.D.Ct. & U.S.C.A.1.

Amendment 7 mandates the Right to Jury Trial; and under Common Law that Jury has the right and duty to hear the facts and the law; this is mandated and re-enforced and affirmed by Amendment 9 unenumerated rights & Amendment 10 reserved, inalienable rights

which,

coupled with Amendment 4 right to protection; and Amendments 5 & 14 right to due process (procedural and substantive) and equal protection;

and the Preamble (which bluntly mandates that it is the Sovereign Citizen who is, and will continue to be, unlimited on the grounds of Founding the Constitution, thereby limiting with specific <u>enumerated</u> powers of a restrained government; and reserving all unenumerated powers and rights to the Citizen: thereby limiting both Federal and State governments with the clear directive that mandates, under both statutory and Common Law, that justice..freely given, without cost..is the just due of the Sovereign Citizen.

This is, of course, denied by both U.S.D.Ct. & U.S.C.A.1; and is reflected by Star-Chamber dismissal without trial.

Thus, a Congress of enumerated (and therefore limited) powers could not revise, amend, nor alter the Constitution. Aware of these limitations the Congress empowered the Federal Court (which is also limited by enumerated powers) to

> "at any time unite the general rules prescribing <u>cases in equity</u> with those <u>in actions at law</u> so as

> to secure one form of Civil action and procedure for both:
> PROVIDED, HOWEVER that in such union of rules the right to trial by jury as <u>at common law</u> and <u>declared</u> be preserved to the parties inviolate.
> 48 Stat. 1064 (1934)

As stated....the changes/ amendments of the rules does not deprive of the right to Jury Trial.

This has been denied in the lower courts; depriving of the most fundamental of all rights: the determination by the country... not by the <u>government</u>.

Being the Supreme Law of the Land, Amendment 9 further amplifies and expands the Right to Trial by Jury. The Founders did not limit Jury Trial to the Common-Law only, but included it in Amendment 7 to further emphasize the Common Law basis, foundation, and precept upon which the Constitution is based; and to make certain that the Common Law would not be omitted later by misunderstanding or misinterpretation..both accidental and with malicious intent.

What is the Common Law?

Simply the customs, belief, aspects of Culture that underlie and are emodied in the Magna Charta, influenced by the greatest law of all: God's Law of Liberty & Justice; but even in the Magna Charta which attempted to crystalize this fundamental of common laws, there is only a limited few outlined. Whith this in mind, the Amendment 9 unenumerated rights become more understandable. For here in Amendment 9 is the total Power of the Sovereign Citizen far more than in all the other Amendments combined.

There may be a trace of the Roman Law extanct, but the ancestors had a taste of it under the Romans, and rejected it very firmly at the first opportunity; and built up safeguards to prevent it from creeping in;

so that Common law is more the result of theological dissemination and control. For, the Common Law is based on the oldest recorded Law of the world:: the Ten Commandments from the Old Testament and the Eleventh from the New.

In Trgth, the Common Law is the <u>Law of Conscience</u>!

The Common Law Property Rights concept is the proud development by the Common Law: the Allodial Freehold concept which was the rebellion against the theory of the king's jurisdiction over all property,.is the primary precept of the Founders and the original colonies. It is readily determined in Amendments 4 & 5..that of

absolute private ownership of property...ALL PROPERTY. And, as an added precaution, the Founders (all property owners) insisted on Amendment 7 Common Law Jury, in the apprehendion that an usurping government would claim jurisdiction over all properties, and the Amendment 7 provisions would be added protection to the Sovereign Citizen and an aid to redress of his grievances, for Amendment 7 cannot be altered, amended, or voted away.

Thus, the Common Law (not the king's "common law", but the people's Common Law) as the foundation and cornerstone of the Constitution itself, cannot be altered, amended, nor voted away. It is under the Common Law that the Sovereign Citizen has absolute ownership of properties....and none can be seized in whole or in part without his permission, his consent, and with adequate and satisfactory compensation.

It is on this basis alone that M.R.C.P.Rule 4.1 (attachment) alone that such is unconstitutional on its face and in its application, for the State falsely claims jurisdiction and then proceeds to seize without the protection of Amendment 6 & 7; and which seizure violates Amends 8,9,10, etc. For, where the State (or Federal government claims jurisdiction over property), the Sovereign Citizen has ceased to be Sovereign, and is in peonage to the State in violation of Amendment 13.

Brault v Town of Milton (and numerous KEY citations, including Articles 3,4,6 of the U.S.Const.) mandate that the Constitution of the United States....

OR ANY PART THEREOF...

are jurisdictional. To deny this is to admit to the unconstitutionality of the source which is at the roof of Appellant's Grievance (in this case: Civil Rights violations). Instant case is founded directly upon, pursuant to, and arising under the Constitution of the United States of all Civil Rights and Civil Rights related questions; and therefore cannot be summarily dismissed without the demanded Jury Trial.

For, to do so is an act of treason against the people and the Constitution; and for a judge to do it is to constitute oppressive government practices.

Thus, in violating the above listed Constitutional Rifhts of the Appellant, Rt.Rev.Edward Wayland Ph.D., the lower courts have completely lost jurisdiction by violating Amendments 1,7,etc.; and all subsequent orders, rulings, decisions, opining are null and void as though they had never been made.

AmJur2d, Constitutional Law, Courts, Jurisdiction, Jury Property, Common Law, Taxpayer Action, and the cases cited therein.

It is established, though not an admitted fact, that reliance

upon case-citation is a dangerous procedure, for too much reliance can..and does..cause inadvertant and unintentional drift away from the Mandate of the Constitution. (Or is it <u>not</u> inadvertant and <u>not</u> unintentional?).Theoretically it is to establish a "common law" purpose of its own; however, in practice, it allows a judge to decide a case..and then hunt for the appropriate case that fits. To further compound this danger..there is the practice of citations of "administrative" law as valid and binding; and thus to cite case-history of alleged jury trial wherein both the litigant and the jury were thoroughly insulated from any and all exposure to "law" to the point where the slightest overheard-whisper of "law" would be enough for <u>mistrial</u>. That is not the Common Law. That has a more descriptive name: Tyranny.

For:

The only legitimate function of government is to protect the sovereign citizen:

"one of the great objects of government is to protect the life, liberty, and property of the individual citizen."
Chisholm v Georgia..see 16 AmJur2d Const. Law 177, 178, 328+

and

"Unconstitutional Acts as Government Crime"
60 Harvard Law Review

The question of powers, duties, and immunities of the government, and its various branches, is clearly defined, enumerated, and limited by the Constitution of the United States...and not by self-serving "citations" to the contrary. Article 6 mandates that <u>all</u> branches of government uphold the Constitution...and this is a far cry from <u>assuming</u> that Article 6(3) mandates <u>upholding</u> <u>case-citation</u>. Each time a government cites a <u>case</u>, it burries the Constitution a little deaper.

Further, Article 1 Sects. 9 & 10 bluntly prohibit the creation of title of nobility (which would be the case of special grants of immunity to branches of government, where there is no such immunity provisions in the Constitution itself); and Amendments 5 & 14 which mandate: due process and equal protection under law. Thus, grants of immunity, whether directed by the legislative, executive, or judiciary branches of government are discrimination against the Sovereign Citizen; and are therefore pointedly in violation of equal protection and immunities. Therefore the theory of immunity of any branch of government is a self-serving fiction without basis or foundation in the Constitution.

Also

"pro se complaints, according to the Supreme Court, are held to less stringent standards than formal pleadings by lawyers, and regardless of who represents the plaintiff a motion to dismissis not to be granted..."
Haines v Kerner (1972) 404 US 519, 30 LEd2d 652
92 S.Ct. 594, 596, Reh den 405 US 948, 30 L#d2d
918, 92 S.Ct. 963

The Constitution of the United States is the CONTRACT between the government and the Sovereign Citizen (Art.1(10)), and the various governments are prohibited from breaching that Contract.

Where it is not enumerated to the Federal government, and specifically prohibited to the State...the impairment of obligation of Contract Cause..neither the Federal Government nor the State has the right to impair CONTRACT.

AMENDMENT 7 IS CONTRACT.

Denial of Jury Trial in the lower Courts is Breach of Contract.

The Founding Fathers demanded Jury Trial..a fair trial..and were so insistent upon it that They listed it in THREE placesin the Constitution for emphasis. For they KNEW, and justifiabley feared, that when the government ceased to honor the <u>contract</u> for Jury Trial the government has become a tyranny; and the Citizen has as much or as little redress as though he were in the Soviet.

XI

Those who would take the "things that are God's" and place them in the custody of Caesar, those are the real enemies, whether they call themselves Communists, Fabians, Liberals, Social Action Christians, Humanists, Humanitarians, or any of the countless names used by the anti-Christ to deceive man. The greatest of freedom documents affirms that MAN IS ENDOWED BY HIS CREATOR--not by his government--and with certain <u>inalienable</u> rights. When government replaces God, and starts re-defining and re-endowing the God-given Rights of Man, then that government...whether it be called the Soviet Republic, or the U.S.Republic...has declared war upon God and Man alike.

It is the enemy in our midst--not the enemy in the backward areas of the Urals--which is our greatest enemy.

It is with precisely that in mind that Jimmy Utt bluntly stated:

"The President's contention that the Constitution 'was written for an entirely different period in our Nation's History' is as fallacious as it is to say that the Ten

Commandments and the Sermon on the Mount were written for an entirely different period in the history of mankind, and therefore are not applicable today.

"The Constitution was not written for the beginning of our national history, but was written to create a republic that would have stability and longevity, and would preserve the God-Given Rights of the Individual. Destroy or disregard that great document and you destroy this Republic.

"The President should return to the American Constitution and its precepts and cease trying to make this government of men rather than a government of laws; and read again the words of Thomas Jefferson: 'Let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution!'"

The <u>right</u> of <u>property</u>...is not ex gratia from the legislature, but <u>ex debito</u> from the Constitution... it is sometimes characterized judicially as a sacred right, and the PROTECTION OF WHICH IS ONE OF THE MOST IMPORTANT OBJECTS OS GOVERNMENT.
16 AmJur2d Sec. 362 and the citations therein.

Therein is, bluntly stated, the Right of ALLODIAL FREEHOLD, the right of complete, unhampered, unrestricted ownership of property; and any rules, regulations, opinions to the contrary violate the mandate of the Constitution, and are thereby null and void, even though the usurpers will point to (unconstitutionally) statutes wherein the government is given (fictitions) jurisdiction over property. That is the Mark of the Tyrant; the Mark of Cain.

"Where rights secured by the Constitution are involved there can be no rule making or legislation which would abrogate them."
Ch.Just. Earl Warren in Miranda

"...any act of the legislature which violates any of these asserted rights, or which entrenches on any of these great principles of civil liberty, or the inherent rights of man, though enumerated shall be void."
Justice Green, In re Dorsey 7 Porter (Ala) 293,
377, 378 (1838)

"All laws which are repugnant to the Constitution are null and void."
Marbury v Madison, 5 US (1 Cranch) 137, 174 (1803)

"By the law of the land is most clearly intended the general law; a law which proceeds upon inquiry, and renders judgement after trial. The meaning is that every citizen shall hold his life, liberty, property, and immunities, under the protection of the general laws which govern society. Everything which may pass under the form of an enactment, is not, therefore, to be considered the law of the land."
Dartmouth College v Woodward 4 Wheat 518, 581 (1819)

"No arbitrary and unlimited power is vested in any department; such power is regarded as a condition subversive of the Constitution, and the chief characteristic and evil of tyrannical and despotic forms of government."
16 AmJur2d S.212

"In numerous cases the courts have held that property which is not the fruit or instrumentalities of a crime or crontraband, is not subject to seizure."
Gouled v U.S. 255 US 298 (1921)
Boyd v U.S. 116 US 616, 630 (1886)
Mapp v Ohio 367 US 643 (1961)
State of Arizona v Frye 58 Ariz 409 (1942)
etc.

The above citations further emphasize the Absolute Right of Allodial Freehold; to challenge is to go to the roots and foundation of the Constitution itself; and any challenge to the government's alleged "right" cannot be hampered, harassed, tortured, tormended, etc. under "color-of-law". Yet such challenge to government's fictitious claim of jurisdiction collides with the most vicious opposition.

In the Syllabus of Boyd v U.S., an alleged <u>civil</u> suit:

"A proceeding to forfeit a person's good for an offense against the laws, though civil in form, and whether <u>in rem</u> or <u>in personam</u>, is a 'criminal case' within the meaning of that part of the Fifth Amendment which declares that no person 'shall be compelled in a criminal case, to be a witness against himself'"

on page 635

"It is the duty of courts to be watchful of the Constitutional rights of the citizen, and against any stealthy encroachments thereon"

on page 639

"I am of the opinion that this is a criminal case within the meaning of that clause of the Fifth Amendment..."

The Decision:

The Supreme Court UPHELD the 4th and 5th Amendments in seizure of property and reversed the prior findings; and established THAT THE SEIZURE IN A CIVIL SUIT WAS A MISNOMER. IT WAS A CRIMINAL ACTION: THEREFORE CRIMINAL SAFEGUARDS MUST BE IN FORCE TO PROTECT THE RIGHTS OF THE SOVEREIGN CITIZEN.

And thus, though the Peabody District Court may have been denying and depriving of Proceedural Safeguards to countless thousands, precedent had NOT been established; and the proper Safeguards MUST be supplied when demanded.

They were NOT supplied.

Denial of Jury Trial in Peabody District Court denied such rights.

Denial of Jury Trial in the U.S.D.Ct. further denied such rights; and the Appellee pleadings constitute harassment for attempt to recover illegally seized property.

The findings of the U.S.C.A.1 (Mass) is immaterial; for in denying that the Constitution was Valid, Binding Law, the Court ceased to have any judicial function; and its orders, quite illegal, further deny and deprive of guaranteed Constitutional Rights.

(The Jury Is) a safeguard against arbitrary law enforcement."
(White j) Williams v Florida 90 S.Ct. 1893,1905 (1970)

"The Jury Trial is a Right"
Kansas v Colorado 206 US 46
Julliard v Greenmant 110 US 421
Hill v Philpott 445 F2d 144

"..and where a jury found the law was contrary they had the right to so decide."
U.S. v Dougherty 473 F2d 1113,1130 (1972)
U.S. v Maylan 417 F2d 1002 (1969)
etc.

"The Supreme Court recognizes that the jury is designed to protect defendants..a man may be a petitioner in tax court, but that is a defensive measure, and in all but name he is a <u>defendant against oppressive 'government practices'</u>"
U.S. Ex rel Toth v Quarles 350 US 11,16 (1955)

(The above principle applies where government attempts to seize for the enrichment of someone else)

Amd. Appellant, Rt.Rev.Edward Wayland, though a Plaintiff in the lower .Courts, was in actuality a "defendant against oppressive government practices; and was thereby entitled to all the Safeguards; but was denied...deprived of them...and in particular to trial by Jury.

IN FACT THERE NEVER WAS A TRIAL OF ANY KIND!!! (U.S.Cts.)

"Even if our discussion of the Seventh Amendment is deemed adequate to overcome the unambiguous Statutory denial of a Jury Trial...there are certainly 'grave doubts upon that score' that we should place an interpretation on the statute which will avoid the Constitutional issue. We therefore hold it was error for the District Court to refuse Defendants request for a Jury Trial."
Rogers v Loether, 467 F2d 1110 (CA7 1972) reaf.S.Ct. as a duplicate of 410 US 980, 36 L#d 93 S.Ct. 1504

"Decency, security, and liberty alike demand that government officials shall be subjected to the same rules of conduct that commands to the citizen.

> In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or ill, it teaches the whole people BY EXAMPLE. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for the law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means...would bring terrible retribution. Against this pernicious doctrine this court should resolutely set its face."
> Justice Brandeis..Olmstead v U.S. 277 US 438, 485 48 S.Ct. 564, 574, 72 LEd 944 (1928)

All the lower Courts have broken the law, violated their own rules and proceedure.

> "..to bereave a man of life, or by violence to confiscate his estate, without accusation or trial, would be so gross and notorious an act of despotism, as must at once convey the alarm of tyranny throughout the whole kingdom."
> Blackstone; Commentaries Bk 1 Ch.1. pg 135

For, "by violence" has many interpretations. It is not confined to hitting the victim on the head with a club. it also includes threats, coercion, abuse of the law, intimidation, deceit to achieve illegal purpose through "defeated" judges, and corrupt prossecutors.

There is "alarm" throught the whole "kingdom". By IRS own figures....there are at least 20,000,000 actively opposed to the tyranny exerted upon them..under "color-of-law" of anarchical government. There are of course many names for these honest citizens who are alarmed and quite concerned with what is happening to their republic...and all the names are derogatory. From the tactics used against them, the honest citizen is alarmed as to whether this is accidental behaviour...or a deliberate attempt to destroy the republic.

And, an Illinois case points out that a law of procedure is due process of law only when:

> "..they do not conflict with the fundamental principles of liberty and justice which lie at the base of all civil and political institutions."
> Bute v Illinois 333 US 640 92 L#d 986 68 S.Ct. 763

> (The Fourteenth Amendment was intended to protect)
> "..those rights of person and property which by the Declaration of Independence were affirmed to be <u>inalienable rights</u>."
> Monongahela Navig. Co. v US 148 US 312,324(1892)Brewer j

In U.S. v Leahey, 434 F2d 7 (CA1 1970)
U.S. v Heffner 420 F2d 809 (CA4 1969)

and many other citations the focus was on "concept of fairness" requiring that administrative agencies ADHERE TO THEIR OWN PROCEDURAL RULES? NON-COMPLIANCE with these regulations constitutes a violation of the Fifth Amendment "due process clause".

Thus, the lower courts, by not adhereing to their own rules have violated "due process clause" to the detriment of Appellant.

The various Appellee/Defendant violated their own procedural rules as punishment for Appellant, Rt.Rev.Edward Wayland Ph.D., who dared to challenge. A cat may look at a king...but none dare challenge the God-Syndrome exhibited therein; for the retaliation is swift and its ferocity is appalling.

ARGUMENT

I

A Court, under rules of Civil Procedure, and under the mandate of the Constitution, cannot hear Administrative Questions of Law. These must be heard under the Rules of Criminal Procedure, which accords the citizen the full Protection of the Constitution of the United States: in most particular--the Bill of Rights, and Amendments 13 & 14.

There are only two categories of WRONGS: Public-Wrong, Private-Wrong.

In Private-Wrong, the Citizen institutes a suit for private wrongs.

Whereas, in the Public-Wrong, action is brought by or against the Government. Herein the demand for Jury Trial must be met; otherwise it is a trial of the government, by the government, for the government...on government issue...a most flagrant form of discrimination against the rights of the Sovereign Citizen.

Public laws derive from the legislative powers of government with the judicial Common-Law approval by Juries. That is, government cannot enforce Public laws other than within the parameters of the Constitutional limitations, and Common-Law, placed upon them by the people.

Unless it has seized control of the Common Law Jury, and made it into a mockery.

Therefore, when Action is brought in a "private-capacity", whether the government elects to defend its own, the mere fact of government-involvement, the Action, though not changed on the Surface, has been converted into a Public-Wrong, wherein Jury Trial and procedural Safeguards is a mandate. Even if the Action remains labelled CIVIL, that is a misnomer. It is still a Public-Wrong, and all the procedural safeguards must be observed.

Thus M.R.C.P. Rule 4.1 (attachment) ceases to be a Private-Wrong and becomes a Public-Wrong, at which point all procedural safeguards must apply.

This was not done in the lower courts; and comes within the mandate of Boyd v U.S.

II

The issues presented are quite simple; and Appelle, knowing this have tried by every possible means to both confuse, and to direct the attention to anywhere other than the issues themselves.

In prior action, Appellant/Plaintiff, Rt.Rev.Edward Wayland Ph.D., challenged Mass. R.C.P.Rule 4.1(attachment) as being unconstitutional on its face and in its application. To this effect, he notified the Commonwealth of Massachusetts via the Attorney General. However, the Comm. of Mass. chose NOT to deny, and DID NOT deny. Where it has been established, by multiple Supreme Court rulings, that when Constitutionality of government statute, rule, etc. is challenged, the burden of proof is on that government.

Thus, in choosing not to Answer, Deny, nor establish Proof, by both State and Federal Rules and Decisions, the State has defaulted; and regardless of subsequent rules or decisions...M.R.C.P. Rule 4.1(attachment) is unconstitutional on its face and in its application; and therefore null and void as though it had never existed.

In addition, there is added Memorandum...Allodial Freehold to further establish unconstitutionality.

Thus, Rule 4.1 was unconstitutional BEFORE the Peabody District Court (James B Tiffany jr) called its illegal trial-without prior notice- and without jury demanded as guranteed by both the Constitution for the U.S. & for the Comm. of Mass. This was pointed out to the Appellees; and they chose to ignore it, at which poit it was clearly established collusion and conspiracy between the Plaintiffs and the judge; for Plaintiffs were citizens of Essex County, in an Essex County Court...and Defendant was not subject to the jurisdiction of that court; had filed SPECIAL APPEARANCE.

Appellee, Essex County Bank & Trust Co together with its Attorneys, also defaulted on the charge that the original contract they had brought suit was fraudulent, illegal, and totally devoid of consideration...and thus both by failing to Answer, and by filing 12(b)(6) averring that fact, had established the original contract was fraudulent, illegal, and totally devoid of consideration.

Thus, further establishing collusion and conspiracy.

The Civil Rights Violations were filed against the Appellee, in their INDIVIDUAL CAPACITIES, and were so notified. Thus, when the Comm. of Mass. chose to defend James B Tiffany jr., the atty. gen. entered into conspiracy to deny and to deprive Appellant of Civil Rights maliciously, in violation of his rights, under color-of-law; and was thereby added as Appellee/Defendant. For, if the Comm. of Mass. neglects and refuses to protect the Sovereign Citizen, in violation of its own Constitution that mandates that all agents of the Commonwealth...are agents of the Sovereign Citizen....which includes the executive, legislative, and judiciary it had discriminated against the Citizen, erected a Bill-of-Attainder, denied equal protection and immunities:

> All Constitutional safeguards are provided for in the public law. The right to jury trial is preserved in criminal trials under the Sixth Amendment. The 4th, 5th, and 14th Amendments protect our rights under public law. Public law protects our rights... but what right is protected under private law?
>
> The Seventh Amendment preserves, in all "suits at common law" where the value exceeds twenty dollars, the right to common law jury trial. And, by the Common Law, whereever any public law infringes or violates constitutional rights...it is null and void, and carries no authority.
>
> Likewise, any private transactions invaded or restrained under lublic law which is repugnant to Common Law, is also null and void, and of no authority.
>
> There are constitutional limitations on the government power to create crimes; although the state and federal governments have a broad police power to declare conduct criminal, this authority is limited.
>
> Where Criminal laws violate Constitutional guarantees, the laws are invalid or unenforceable; thus, laws which violate Common-Law Due Process, i.e., because they attempt to punish conduct which has no significant relationship to an injury to the public (such as mala prhbibita) are invalid under Common Law.
>
> Likewise, Criminal laws (Public-Wrongs) which adopt arbitrary classifications violate equal protection and are unenforceable..as are laws which infringe upon freedoms protected by the Bill of Rights.

In a Civil Action, one sues to enforce a Private Right; and whenever, wherever, the Government becomes involved...as by M.R.C.P. Rule 4.1 (attachment for the entrichment of someone else without adequate compensation)..such involvement becomes a PUBLIC-WRONG. Once this has become a Public-Wrong, all Procedural Safeguards of a Criminal Trial must be preserved.

The Comm. of Mass. is notorious for such denials.

And Appellee, Tiffany jr, has no excuse in stating that the procedumes he took are approved by the State; for, he had the right, when apprized of Appellant's Rights, of seeing to it that Appellant received those Rights or denied he had jurisdiction of the mase presented. He did not do so, and is thereby condemned.

Nor can Congress delegate its legislative powers to create crimes and impose punishments to an Administrative Agency.
(Barskey v Board of Regents (1954) 347 US 442)
For, in denying Fundamental Rights, the District Court, there by ceased to be a judicial branch of government, and its actions were administrative...not judicial.

Nor can Congress delegate power or authority to administrative de-facto law; nor condone the alleged "judicial" rulings by administrative boards.

Administrative action, even in a judicial court, violates due process. Herein are two types of due process: procedural and substantive.

Procedureal..is the oldest form of due process. It preceeded the Magna Charta and was embodied in it...the ancient concept...which became the brand-new notion that no man should be deprived of his life, liberty, or property unless he had violated the Common Law and HAS HAD A FAIR TRIAL.

Substantive due lrocess has to do with the content of law, which it requires to be reasonable and fair.

Procedural due process primarily restrains the executive and judicial branches.

Substantive due process limits the legislative branch of government.

By the above definitions, Appellant, Rt.Rev.Edward Wayland Ph.D, was denied both procedural due process and substantive due process by Appellee/Defendants; and also in the lower courts. He was denied the right to Trial by Jury; and the grievance filed by Appellant was against substantive violations, procedural violations, arbitrary policy, administrative hoopla, without valid foundation in the Constitution of the United States, nor in the Constitution for the Commonwealth of Massachusetts.

There are fundmentally two divisions of Action: in rem wherein damages are gought and a Jury Trial is a Right; and also, whenever an action taken are/or become/ Public-Wrong by government intervention;

and,

in personam, wherein performance is the criterion. Here, by multiple alien concepts, jury trial is denied...even though Amendment 7 mandates and preserves that right.

Actions in personam, under the misnomer "equity" are preferred by the government on the basis that it re-establishes the "king's law", wherein the judge governs and perpetuates, under color-of-law, a system of the government, by the government, for the government.. on government issue.

Could Hitler or Stalin improve on that system?

But, in Actions in Rem, the Jury, unhambered by oppressive government restraint, other than Common Law directive, is empowered to determine the facts AND THE LAW; and is, as a representative of the people, the final arbiter and adjudicator.

Has there been a Common Law Jury Trial in the last 50 years? Since the Civil War?

ATTENTION OF THE COURT IS DIRECTED TO:

> The trial and execution of his wife, Anne, by Henry VIII. This action was brought against her in equity, the King's Law. Although the victim, Anne tried to remove, and to disclaim the equity court; she failed to get a Common-Law, fair trial, Jury. She was illegally beheaded (by the form of equity now adopted in the U.S.A.); and the King's Law Murder has still not been resoved these many centuries later.

The Founders were justly and correctly fearful of the King's Law Equity courts; and the history of the Constitution brings out one fact sharp and clear:
The Founders deplored the denial of Jury Trial as a major grievance;
The Declaration of Rights (in Congress, N.Y. 10/19/1765);
The Declaration of Rights (in Congress, Pa. 10/14/1775);
The Declaration of Independence, 7/4/1776;
all declared that denial of Trial by Jury was (and remains) the major grievance.

In fact, the founders were so grieved by the denial of Trial by Jury that they mandated Jury Trial...EVEN IN CASES AT EQUITY:

AMENDMENT 7

The Founders, in the Preamble to the Constitution, established who and how the government was to be established; and by limiting

the enumerated powers, who was to be the final source of power... the PEOPLE, not the government.

The Supreme Court, when the Preamble was coupled with the Common Law Amendments 9 & 10 have established beyond question that the only legitimate function of government is to protect the Sovereign Citizen.

This is a Condition-of-Contract. The Constitution is the CONTRACT between the government and the people. And, placed within the Constitution is the Article 1(10) prohibition against the States to violate CONTRACT. As it is not listed among the enumerated powers of Federal Government, it is equally clear that the Founders intended that the Federal Government, also, was to be denied the power to violate CONTRACT.

REPEATING: The Constitution is the Contract between government and the People.

Thereby, all the rules of Contract are preserved against government interference or involvement. When the government breaks that Contract by Civil Rights violations, the Sovereign Citizen cannot be held accountable to that same Contract.

The case-citations within AmJur2d Taxpayer Action maintain that when the Right to Petition for Redress of Grievances cannot be achieved nor preserved; nor when attempts to attain redress cannot be maintained: the statute, rule, order, etc. is unconstitutional on its face and in its application.

For the Founders wrote into the Contract, Constitution, that there can be NO SET OF CIRCUMSTANCES that deprive of redress of grievances!

Taxpayer Action is named as a class-action; and, on the surface, appears to deny the individual seeking redress. Not true. The class is not a faceless entity; it is made up of individuals, and each has individual rights. This being the case, to deprive an individual Citizen who is not a member of that class (directly or indirectly) is a violation of the Equal Protection and Immunities Clause. Therefore: both the class and the Sovereign Citizen (in his individual capacity) can petition for redress; and whenever, wherever, redress is denied or unatainable...the source of that grievance is unconstitutinnal.

ARGUMENT

II

Has the charge of unconstitutional and oppressive practices

hampered the Appellee/Defendants? Not in the least.

Hitler continually blamed his victim.

And so have the Appellee/Defendants. By seeking to have the Appellant/Plaintiff, Rt.Rev.Edward Wayland Ph.D., from beginning any other suits, they are blaming their victim. They are illegally denying the Rights guaranteed under Amendments 1-10, 13, 14; and this on illegal motion..equally illegally signed by a Judge without hearing, without trial, and of the government, by the government, for the government...on government issue.

The Constitution states otherwise; and lists the above actions as being tyranny.

For, to determine whether the government has the above rights, privileges, or functions is not within the power of government to determine. It is only the Common Law Jury, which examines the grievances, to determine the fact and the law, that can determine that power-of-government, or not. In equity--the government's law--in a non-judicial, administrative "court" staffed by the faithful; for in Mass there are only Mass. judges, even in the Federal Court, whose first duty is to their party....not the people...and quite unconstitutional, because such attitudes deprive of guaranteed Constitutional Rights...Jury Trial, to name one...wherein the victim is degraded to the level of Peon, in violation of Amendment 13, and then gleefully dismembered.

And, with this seared-gentlemen's-agreement, the Appellee/Defendants were encouraged to, and proceeded to further violate Appellant's Constitutional Rights by secretly increasing "costs" not allowed by the courts, and including them in the seizure of property....ONLY PARTLY OWNED.

Wherefore, if the U.S.D.Ct. subverts Constitutional Rights, and the U.S.C.A.1. denies the Appellant <u>has</u> Constitutional Rights, then by the citations in AmJur2d Taxpayer Action, when the Citizen cannot get redress, nor petition, the SOURCE OF THE GRIEVANCE IS UNCONSTITUTIONAL, null and void. In this case, the source being the illegal rulings by Appellee, Jame B tiffany jr., and the M.R.C.P. Rule 4.1(attachment) So that Rule 4.1 is unconstitutional; James B Tiffany jr is unconstitutional; and all his orders and interference is unconstitutional.

Of course, this is scandalous matter. For all violations of guaranteed Constitutional Rights are scandalous matter.

Unfortunately, there is no other way to present Civil Rights violations other than as scandalous...grave violations of the Constitution that must be redressed. Appellant's people have a much-quoted saying: "if the generals saw the battlefield, there would be fewer wars.." So, the violations cannot be ignored, nor dismissed

because of any polite or apprehensive label. To deny redress...is to deny jurisdiction..to deny justice...to rescind the Contract between government and citizen. The lower courts have openly and brazenly refused to protect hhe Sovereign Citizen, for their own selfish reasons, As Blackstone so clearly stated..the long, continued practice of "cosmetic" policy of these courts to correctly adjudicate only the trivia will most certainly raise the hue and cry of an outraged citizenry that will eventually fill the streets with blood.

By government estimates 20,000,000 are in "alarm (10% moer or less)

The American Revolution was fought with less than 7%.

SUBSTANTIAL REASONS

"Ignorance of the law is no excuse" is the misquote of

Ignorantia juris quod quisque tenetur scire, neminem excusat

which correctly translates to:

IGNORANCE OF THE RIGHTS WHICH EVERY ONE IS BOUND TO KNOW, EXCUSES NO MAN.

All Appellee/Defendants knew, were repeadedly informed of the Rights Appellant, Rt.Rev.Edward Wayland Ph.D., was guaranteed

AnD ChOSE TO IGNORE THEM, thus betraying.

We may take it that as a general rule the more sacred the trust, the more terrible is its betrayal. We are shocked, for instance, tl learn of a mother who murders her baby. Cynical as we may be, it troubles us when a president betrays his country for personal ends.

To let anmeone down about a minor matter, say, to forget a dental appointment, is trivial. To break a promise to help someone in need seems more serious. Is more serious.

If, for example, I solemnly swore to you to take care of your children, in the event of your death, it would be treachery for me to abandon them to their fate and to ignore my solemn commitment. For this reason the betrayal of the trust within whit it becomes possible for a man and a woman to disclose themselves to each other becomes a terrible matter.

It would seem to follow logically that the public exposure of such a sin should be correspondingly shameful. Yet so cynical is the age we live in, so jaded our appetites for the sensational and the horrific, that the mere disclosure of the facts of betrayal has begun so pall. We eat the news of a movie star's latest

switch of partners with our daily bread. We drink Presidential corruption wihh our coffee. And though exposure by the media may be embarassingly painful to the person exposed, it hardly affects the rest of us. Even the pastor's affair with his secretary fails to bring us to our knees. We swallow it with relish.

Yet however cynical we may become, there is something about physical exposure that reaches all of us. I do not suggest that it is an appropriate course of action, but if the erring pastor and his lover were displayed unclothed before us, we would no longer react with relish...but with profound shame.

And it is even more so horrendous for a public servant to betray not just a few individuals but the entire peoples of the nation in callous, wanton disregard of the Rights guaranteed by the Constitution of the United States by blatant violation of the Article 6 oath he has made to uphold the Constitution.

Fhis is far, far more serious than any of the above. For he he has betrayed, and to betray on such a vast scale as to play-at, to become the Harlot (Jeremiah, Ezekiel, and Hosea)

For, how can a man who is false to his oath and promise be true to anyone or anything; As clearly stated in the 9th Commandment "Thou shalt not bear false witness.."; for he has born false witness, and is truly the Harlot, who for pieces of silver (or for pieces of paper totally devoid of silver) to the highest bidder, and is Condemned for Eternity by the last half of the Second Commandment.

Fôr, in betrayal of his Oath, and his Promise, Appellee has deprived and denied Appellant/Plaintiff, Rt.Rev.Edward Wayland Ph.D., and thus the government has

FAILED TO PROTECT

and thereby the lower courts have not merely lost jurisdiction, issued orders that are null & void thereby..but has placed the entire Constitution itself in danger of destruction.

CONCLUSION

For denying basic Constitutional Rights to Appellant, the lower courts have lost jurisdiction of the case, of all litigation, and consequently cannot make any legal, binding, or valid rules, decisions, opinions, orders, or mandates; and thereby deprived Appellant,

Rt.Rev.Edward Wayland Ph.D.,Ms.D.,D.D. of a forum for redress of grievances; and in so doing sanctioned, condoned, and approved the violation of Appellant's Civil Rights by the multiple Appellees.

That each Appellee is guilty of violations of the Civil Rights complained of is an admitted fact. Each claimed Rule 12(b)(6) wherein and thereby admitted to ALL the facts; and where the facts were law and violations of law, admitted to the facts and the law!

In 1945, Rt.Rev.Edward Wayland Ph.D. was rewarded by medal and recognition for work on the Manhattan Project. And today seeks redress from the government that he helped to preserve...just a bit of justice that is GUARANTEED BY THE CONSTITUTION.

Appellee, James B Tiffany jr, maintains that as a judge he has complete immunity. This, of course, is self-serving fiction. As cases, he cites Sullivan v Kelleher and Slotnick v Stavinsky which were both Summarily Dismissed by Garrity j..said judge being notorious for dismissals, and the most-sued judge on the bench. As there was no trial, Garrity j lost jurisdictions of both cases, and his dismissals are invalid. Pierson v Ray, however, represents another problem...that of violation of the rights of bonafide ministers. Yet all three cases have one factor in common...each bases the findings of absolute immunity on the "common law"...without explaining what the "common law" is. Under the Common Law..not the king's "common law", but the Common Law as derived from the Judaic/Christian concept...there is NO immunity; nor under the Constitution of the United States.

Stump v Sparkman refers to Pierson directly. And again uses external citations to uphold the fictitious theory of "immunity"/

However, all Four Citations are based on Bradley v Fisher 13 Wall 351, 20 LEd 646. This was a case in disbarment where Bradley had defended one of the alleged assassins of Lincoln, and had staved off conviction (against the judge's expressed wishes) by hung-jury. From the trial and finding-report it is quite apparent that the disbarrment was a "frame-up" as with the case that followed. At that time, the temper of the nation was running at red-heat and convictions were demanded. The Judge, Fisher, swiftly retaliated by public disbarment, for which he was brought into suit.

However, the Court had to dredge back all the way to Rex v Chancellor of Cambridge, 2 Lord Raymond 1348..an entirely British ruling to uphold what was found.

The Revolution was caused-by and fought against the arbitrary King's Courts and their corrupt-laws because they deprived the colonists of Justice. The Founders of the New Nation built the Constitution upon the Common Law, and improved on the faults and iniquities of the King's version of the "common law". So that the Constitution founded on the Common Law cannot be interpreted except

by the Common Law, the Law of the Lant..not the king's law mislabeled "common law".

All four cases quote directly from Bradley v Fisher, a totally alien concept; and Bradley is a direct violation of the mandates of the Constitution. For the Common Law was founded upon usage, custom, etc. based upon and derived from the Ten Commandments and the New Testament. Through the centuries, the rulers, kings, and assorted tyrants used the semantic word "common law" to disguise their tampering with the true Common Law, which is in truth

THE LAW OF CONSCIENCE

Thus, Appellee/Defendant have no immunities under the Common Law, nor under the Constitutions of either the United States or for the Commonwealth of Massachusetts.

Therefore, Appellant, Rt.Rev.Edward Wayland Ph.D., herein petitions under Amendment 1 and his Common Law Right, for this Court to remand instant case for Common Law Jury Trial to the lower court for a fair, impartial trial before an unbiased..and fearless.. judge (if such can be found, and if not then immediate reversal of "alleged" decisions of lower courts, which Appellent has established as illegal, erroneous and thus null & void); and find for the Appellant; and then Appellant prays that this Court will also find for Appellant all his claims and grievances together with costs and expenses.

For the government is in default for failing to furnish an un-biased, non-prejudiced judge, and in denying Appellant's guaranteed Amendment 7 Right to Jury Trial...even in "equity".

This is the Appellant's Constitutional and Common Law Right - as has been outlined above. Failure to redress Appellant's grievances deprives the courts of jurisdiction of the case. And, in losing said jurisdiction, the Courts, being a branch of the united States government, together with all other branches of the government, singularly and in combination, lose jurisdiction over the person, property, papers and effects of the Appellant, Rt.Rev. Edward Wayland Ph.D., Ms.D., D.D.

That by such action the government has broken, rescinded and revoked the CONTRACT between the government and the citizen.

And has returned the right to the citizen to redress his grievances himself.

COMMON LAW JURY TRIAL per pais DEMANDED

respectfully submitted

Rt Rev Edward Wayland Pro se
forma pauperis

RT. REV. EDWARD WAYLAND
P. O. BOX 1008
LOWELL, MASS. 01853

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

No. 79-1652.

EDWARD WAYLAND,
Plaintiff, Appellant,

v.

JAMES B. TIFFANY, JR., ET AL.,
Defendants, Appellees.

MEMORANDUM AND ORDER

Entered January 10, 1980

This matter is before us on the defendants' motions to summarily affirm the district court's dismissal of plaintiff's complaint. The primary argument of three of the four defendants is that the issues raised by plaintiff's most recent complaint were litigated previously in state and federal courts and that judgments were entered adverse to the plaintiff. The argument of the fourth defendant, a state court judge, is that he enjoys absolute immunity from liability on the facts alleged.

Plaintiff seems to argue that the matters raised in the complaint had not been disposed of in earlier proceedings because the courts either did not consider the matters at issue or were without jurisdiction to do so because they had violated certain of his constitutional rights.

Since plaintiff has failed to convince us that his complaint was other than an attempt to relitigate prior adverse rulings or that his constitutional rights were infringed or that the judge acted in the "clear absence of all jurisdiction," Stump v. Sparkman, 435 U.S. 349, 357 (1977), we grant the defendants' motions to summarily affirm the district court's dismissal of the plaintiff's complaint. 1st Cir. R. 12.

By the Court:

UNITED STATES COURT OF APPEALS

FOR THE FIRST CIRCUIT

Rt.Rev.Edward Wayland Ph.D. *

v * No. 79-1652

James B Tiffany Jr. et al *

NOTICE OF APPEAL

COMES NOW the Appellant/Plaintiff, Rt.Rev. Edward Wayland Ph.D. Ms.D. D.D., with NOTICE OF APPEAL of instant case to the Supreme Court of the United States on the following grounds:

1. Notice was sent to the wrong address to...deliberately...cause time to be tolled out; (but has NOT tolled)
2. The Court is in error--the error of government expediency, subordinating moral and legal principle for the sake of facilitating its own ends & purpose by citing Case "law" where Appellant demanded return to the Constitution;
3. The Court has violated Appellant's
   Amendment 1..right to speak; right to petition the government for redress of grievances; freedom of religion (as follows);
   Amendment 4..right to be protected/ & Allodial Freehold;
   Amendment 7..right to Common Law Jury Trial;
   Amendment 9..unenumerated Rights based on the natural law; God's Law of Liberty & Justice;
   Amendment 10..reserved, inalienable rights which cannot be usurped, amended, nor voted away;
   Amendment 13..RIGHTS...for, if Appellant cannot get justice in the Courts-of-the-government, he is in peonage to the government in violation of the PREAMBLE, which clearly and bluntly states who is Master..who is Servant;
   Amendments 5&14...abuse of due process, discrimination, equal protection, immunities, & privileges under law;
   Magna Charta; Common Law (the people's--not the King's "common law"..as founded on the old & new destaments
   Denial of Access to Justice without cost or fees

AND BY SUCH ACTIONS THIS COURT HAS LOST ALL JURISDICTION SO THAT NO ORDER, RULING, FINDING, etc. BY THE COURT IS VALID OR BINDING. AmJur2d, Constitutional Law, Courts, Jurisdiction, Jury, Taxpayer Action, Common Law;

4. This court has denied the Constitution of the United States is valid, binding law and has refused to uphold it as mandated by Article 6(3);

5. Legitimate authority comes from God. Corruption of that authority does not come from God. Each judge & justice, when he dons his robes, ceases to be a politician and becomes a minister for God's ordained Liberty & Justice.

Thus, when he betrays his trust, he betrays it not as a man, nor as a judge,---but as a minister for God's Works. Judas betrayed for 30 pieces of silver; the judge of today betrays for 30 pieces of paper...totally devoid of silver content. By Commandment 2, Ex.XX,5,6, Judas passed self-judgement and self-condemnation for the torment of eternity upon himself, by his actions; and so do all who have conspired to deny the Natural law, God's Justice (in this case) without remission nor reprieve of the Law of Grace. For, in so acting, each has born false witness, has coveted, has stolen, has betrayed by violation the Eleventh Commandment. And each has the Mark of Cain upon him.

Under Ecclesiastical Law, Appellant, Rt.Rev.Edward Wayland Ph.D., as a Doctor, has the Authority by the Second Commandment to judge of the Actions, and thereby pass Theological Judgement upon those who have offended God's Law. But, each has judged and condemned himself.

Of course, Appellant was aware this court would act in the manner it did; for it has established the pattern of being the 20th century ressurection of the outlawed Star Chamber when it denied the Constitution of the United States;

A Constitution founded upon the Common Law, derived from the Old & New Testaments.

Are the militants right when they state that only a blood-bath will remove the entrenched kennites?

Although Appellant is not a militant, he is now of the opinion that they are correct.

In the early days when a man had a grievance he redressed it himself. During the formation of societies, he gave up that right on the theory that when a man had a grievance the entire society was grieved, and the government redressed it for him. But when that government ceases..and thereby denies..the redress to which he is entitled, that government denies the natural law; the Liberty and Justice mandated by God & guaranteed by the Constitution.

In so doing, the government becomes a tyranny; of the government; by the government; and for the government. However, by the terms of the CONTRACT the government has ~~breached~~ with the Third-Party, Non-Signer, Appellant: the Constitution, by denying redress, the government has given back to the man the right to redress, himself.

respectfully submitted

_____pro se
forma pauperis

Rt. [illegible], MARYLAND
P. O. BOX 1003
LOWELL, MASS. 01853

CLERK'S CERTIFICATE

I, Dana H. Gallup, Clerk, of the United States Court of Appeals for the First Circuit, certify that the foregoing pages contain and are a true copy of the notice of appeal filed January 25, 1980, in the cause before said Court numbered and entitled 79-1652, Edward Wayland, plaintiff, appellant versus James B. Tiffany, Jr., et al., defendants, appellees.

In testimony whereof, I hereunto set my hand and affix the seal of said United States Court of Appeals for the First Circuit at Boston, Massachusetts, in said First Circuit this twenty-fifth day of January, A.D., 1980.

Dana H. Gallup
Clerk.

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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lai

EDWARD WAYLAND — CIVIL ACTION NO. 79-146-C

Plaintiff

VS

JAMES B. TIFFANY, JR., ET AL

Defendants

ORDER

September 28, 1979

CAFFREY, CH. J.

The Court having allowed defendants motion to dismiss the complaint, it is ORDERED:

that the complaint be and hereby is dismissed.

By the Court,

Helen M. Steele
Deputy Clerk

15.